



DEPARTMENT OF JUSTICE
Antitrust Division

ANNE K. BINGAMAN
Assistant Attorney General

*Main Justice Building
10th & Constitution Ave., N.W.
Washington, D.C. 20530
(202) 514-2401 / (202) 616-2645 (f)
antitrust@justice.usdoj.gov*

March 14, 1995

The Honorable Stanley J. Sporkin
United States District Court
for the District of Columbia
3rd & Constitution Ave., N.W.
Washington, D.C. 20001

Re: United States v. Microsoft
Civil Action 94-1564

Dear Judge Sporkin,

I am writing to provide a quick correction of a misunderstanding embodied in your opinion released today. Your opinion misreads our brief to the court of appeals in this case to suggest that the Tunney Act precludes inquiry into any "side deal" that is part of an agreement to settle a case by a consent decree. Opinion at p. 4, ll. In fact, our brief means to assert precisely the opposite: the Tunney Act permits inquiry into any such side deal, and we have repeatedly told both you, and the court of appeals, that no such side deal exists today or ever existed. See J.A. 828, 836-38,846, 950-51, (Transcript, January 20, 1995, at 18, 27-29, 37, 141-142) and Brief of United States in the court of appeals, p. 28. It is precisely because we believe that such an inquiry is proper that we have unhesitatingly thought it proper to discuss this question, and to answer fully any questions from you in this regard. We regret if our wording of the sentence from our brief was confusing in this regard.

Sincerely,

/s/
Anne K. Bingaman

AKB:slg
cc: All Counsel of Record